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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,171	10/28/2003	Marian Henry		7632
45096	7590	03/29/2006	EXAMINER	
STEVEN HOROWITZ, ESQ. 295 MADISON AVE SUITE 700 NEW YORK, NY 10017			DOSTER GREENE, DINNATIA JO	
		ART UNIT		PAPER NUMBER
				3743

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,171	HENRY, MARIAN	
	Examiner	Art Unit	
	Dinnatia Doster-Greene	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed November 23, 2005 have been fully considered but they are not persuasive. First, Applicant argues that "Lindberg does not teach that 'low friction' means substantially frictionless." The Office respectfully disagrees with Applicant since Lindberg specifically states in col. 1, lines 4-10 that "a low friction surface (1) made of substantially frictionless." It is the Office position that Applicant cannot redefine the terms of the Lindberg patent contrary to the disclosure of the Lindberg patent. Second, Applicant also asserts that the process of turning a patient by taking a lunge position, pull in a horizontal direction and placing the palms facing upwards are unique and are not common every day practices utilized by nurses and caregivers. The Office also respectfully disagrees and has provided an additional reference (U.S. Patent No. 6,349,432 issued to Scordato et al.) pursuant to Applicant's request. Thus, the rejections of claims 1-16 still stand are repeated below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (U.S. Patent Application No. 2002/0029417 A1) in view of Lindberg (U.S. Patent

No. 5,787,523), Berge (U.S. Patent No. 6,874,176) and Scordato (U.S. Patent No. 6,349,432). Walker discloses the claimed invention with the exception of a specific recitation of a draw sheet having a “frictionless” lower side, a support sheet having a substantially frictionless upper surface in a central portion and some of the specific steps recited to turn the patient. Walker discloses a draw sheet with a “low friction underside.” Although Walker does not specifically mention the term “frictionless”, Lindberg, which also relates to a patient repositioning sheet, teaches that it is known in the art that the definition of the term “low friction” also encompasses a “frictionless” quality (Lindberg, col. 1, lines 4-10). In addition, Berge, which also relates to a patient repositioning sheet, teaches that it is known that a draw sheet can be positioned on top of a support sheet having a frictionless upper surface (Berge, draw sheet 18, support sheet 16, and col. 5, lines 21-26). Furthermore, regarding the methods steps of rotating the patient, the Office takes the position these are common every day practices and procedures that are taught to nurses, caregivers and handlers in order to prevent injuries to themselves as well as the patient. (For example, see Fig. 2b of Scordato—wherein the caregiver lunges forward, her hands are in an upward position and the patient is being pulled in a horizontal position). Thus, it would have been obvious to one skilled in the art, to incorporate the teachings of Lindberg, Berg and Scordato into Walker for the purpose of facilitating the repositioning of the patient while mitigating the risk of injury to the handler and the patient.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (U.S. Patent Application No. 2002/0029417 A1) in view of Lindberg (U.S. Patent

No. 5,787,523), Berge (U.S. Patent No. 6,874,176) and Scordato (U.S. Patent No. 6,349,432) and further in view of Heimbrock (U.S. Patent No. 6,820,292). As discussed above the combination of Walker, Lindberg, Berge and Scordato discloses the claimed invention with the exception of wherein the substantially frictionless material of the draw sheet is made of 86 pic nylon taffeta. However, Heimbrock, which also relates to a patient transfer apparatus, teaches in col. 6, lines 25-27 that it is known to employ nylon taffeta as a draw sheet. Thus, it would have been obvious to one skilled in the art to incorporate the teachings of Heimbrock into the combination of Walker, Lindberg, Berge and Scordato for the purpose of facilitating the substantially frictionless lower surface for transferring a patient.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

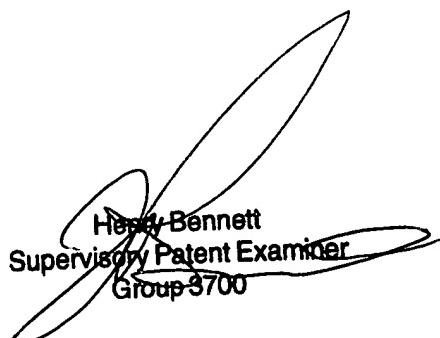
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-271-7143.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg


Henry Bennett
Supervisory Patent Examiner
Group 3700